

Legislative Audit Division

State of Montana



Report to the Legislature

November 2000

Performance Audit

Board of Pardons and Parole

Department of Corrections

This report contains information on Board of Pardons and Parole and Department of Corrections activities related to the parole process. We specifically address activities related to parole release decisions, administrative activities, and interagency communication and coordination. The Board is conducting parole hearings in a timely manner. This report outlines suggested improvements in Board activities and Board and DOC communication and coordination.

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Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, accounting, logistics, computer science, and engineering.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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November 2000

The Legislative Audit Committee
of the Montana State Legislature:

We conducted a performance audit of the parole activities for inmates and parolees performed by the Board of Pardons and Parole, and parole-related activities by the Department of Corrections. This report contains recommendations for improving Board and department parole processes.

We wish to express our appreciation to the management and staff of the Board of Pardons and Parole and the Department of Corrections for their assistance during the audit.

Respectfully submitted,

(Signature on File)

Scott A. Seacat
Legislative Auditor

Legislative Audit Division

Performance Audit

Board of Pardons and Parole

Department of Corrections

Members of the audit staff involved in this audit were Kent Wilcox and Mike Wingard.

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Appointed and Administrative Officials

Board of Pardons and Parole

Patrick Fleming, Chair
Maureen Neihart
Gary Weer

Butte
Billings
Deer Lodge

Auxiliary Members

Mark Fournier
Roxanne Wilson

Great Falls
Busby

Craig Thomas, Executive Director

Department of Corrections

Rick Day, Director

Introduction

The Board of Pardons and Parole (Board) is responsible for determining whether a parole-eligible inmate may serve a portion of his prison sentence in the community under parole supervision. The Board consists of three regular members and two auxiliary members who serve when a regular member is unable to attend hearings. Members of the board are citizen volunteers appointed by the governor. The Board is attached to the Department of Corrections (DOC) for administrative purposes only.

We examined Board compliance with statutes and efficiency of operations. Since many Board and DOC activities are inter-related, we also examined inter-agency communication and coordination.

Montana's Expanding Correctional System Has Affected Board Activities

Rising inmate populations and a rapid expansion of Montana's correctional system have affected Board activities. Historically, the Board conducted most activities at the state prisons in the Deer Lodge valley. Today, the Board conducts parole-related activities at six prisons located in different areas of the state and at community-based correctional programs located in larger communities. While the Board has continued to meet its statutory obligations, the Board has changed its practices, which has led to differences in types of parole hearings and pre-parole preparation. Inmates placed in facilities outside the Deer Lodge area typically appear before a hearing officer instead of making a personal appearance before the Board. In addition, these inmates also have less contact with Board staff for pre-parole preparation.

Recommendation #1

We recommend the Board:

- A. Seek legislative clarification for authorizing the use of hearing officers to conduct initial parole hearings; and**
- B. Conduct a detailed analysis of its future resource needs and present the analysis to the 2003 legislature.**

Report Summary

The Board Can Improve Reporting of Its Activities

Board biennial reports provide accurate information about general activities, such as numbers of hearings conducted, or inmates paroled. However, the Board does not track information related to goals and objectives. Additionally, the Board has not established clearly defined criteria for making parole decisions. Without comprehensive information, the Board, legislature, and other agencies cannot fully evaluate Board activities or their impact on the correctional system.

Recommendation #2

We recommend the Board:

- A. Revise its current management information collection effort to report more information regarding how its activities relate to goals and objectives.**
- B. Define and document criteria used for determining parole release decisions.**

The Board and DOC Can Improve Formal Coordination of Activities and Resources

The Board and DOC have good communication and coordination on individual cases. However, the two agencies have not fully coordinated the use of correctional system resources.

While board members are knowledgeable about the correctional system, they are part-time volunteers facing a complex array of programs, agencies, and procedures. In some instances, Board decisions may not be consistent with the availability or intended use of DOC resources.

Recommendation #3

We recommend the Board:

- A. Develop a comprehensive resource manual for guiding agency activities**
- B. Coordinate development of a resource manual with the Department of Corrections to ensure the manual is consistent with department practices and policies.**

The Board Can Increase Efficiencies by Improving Automation of Management Information

The Board relies on multiple manual and automated management information processes for tracking agency activities. The existing systems are becoming obsolete, which adversely impact staff productivity and limit the Board's ability to collect and compile management information.

DOC is implementing an automated offender management information system called PROFiles. The Board and DOC share similar offender information, and the Board expects to utilize the new system. The two agencies have started to cooperatively work on development of applicable system components.

Recommendation #4

We recommend:

- A. The Board continue to examine its administrative processes to identify management information and automation options for ongoing agency operations; and**
- B. The Board and DOC continue to coordinate the collection and sharing of management information as part of the development of PROFiles.**

Formal Communication Strategies Would Improve Board and Department Operations

While many Board and DOC activities are inter-related, the two agencies have limited formal communication and coordination and have not established strategies to ensure agreement on the use of correctional system resources. Improved interagency communication and coordination can increase the efficient and effective use of available resources and ultimately decrease correctional system costs.

Recommendation #5

We recommend the Board of Pardons and Parole and the Department of Corrections further develop formal processes for coordinating interagency activities.

Chapter I - Introduction

Introduction

The Legislative Audit Committee requested a performance audit of Board of Pardons and Parole (Board) activities. The Board is attached to the Department of Corrections (DOC) for administrative purposes only. The Board's main office is located in Deer Lodge, and a satellite office is located in Billings. The Board has two primary statutory responsibilities:

1. Evaluate requests for executive clemency and make recommendations to the governor.
2. Determine whether to grant offenders parole, or revoke parole when offenders violate conditions of parole.

Executive Clemency

Executive clemency is either a reduction of an offender's sentence or a pardon, which is a declaration the offender is relieved of all legal consequences of a prior conviction. The Board reviews executive clemency applications. If the Board recommends executive clemency, the recommendation is forwarded to the governor for a final decision. Board denials of executive clemency applications are final, except for capital cases. In capital cases, the Board submits a recommendation to the governor for consideration and a decision. During calendar years 1998 and 1999, the Board reviewed 31 executive clemency cases. In one case, the Board recommended a pardon.

Parole

Parole is not a reduction in sentence, but a determination it is in the best interest of society that an inmate be supervised in the community. Parolees must comply with established parole conditions such as restrictions on residency, travel, and other behaviors and activities that address public safety concerns. Parolees remain under jurisdiction of the Board until discharging the prison portion of the sentence. Parolees who demonstrate they cannot live a law-abiding lifestyle may be returned to prison at the Board's discretion.

Chapter I - Introduction

Audit Objectives and Scope

Our audit focused on Board activities related to parole. We did not examine the Board's executive clemency activities. Our general audit objectives were to verify Board compliance with statutory provisions and evaluate the efficiency and effectiveness of its operations. During the audit, we also identified and examined areas where Board and DOC activities overlap, and included those areas in the scope of the audit. Specific objectives were to:

1. Verify Board compliance with statutory requirements.
2. Verify the accuracy and completeness of Board information in its biennial report.
3. Evaluate the efficiency of Board operations.
4. Examine how Board activities affect DOC institutional populations and costs.
5. Evaluate communication and coordination between the two agencies.

Audit Methodology

To gain an understanding of Board activities, the parole process, and meet our audit objectives, we:

- < Interviewed Board members, management, and staff.
- < Reviewed state laws and administrative rules.
- < Attended parole hearings and other Board activities at state and contract facilities.
- < Reviewed reports and documentation from other states.
- < Reviewed and analyzed Board management information and biennial reports.
- < Analyzed Board administrative and hearing processes.

Since many Board and DOC activities are interrelated, and an objective was to examine the impact of Board activities on department activities, we also:

- < Interviewed DOC management and staff.
- < Interviewed contract facility management and staff.
- < Reviewed DOC documentation and files.

We conducted audit work in accordance with government auditing standards for performance audits.

Criteria Used to Examine Board Activities

Criteria used to evaluate Board activities included standards established by the American Correctional Association (ACA). The ACA is a nationally recognized correctional organization that has developed minimum standards for juvenile and adult correctional programs and facilities, including adult parole authorities. ACA parole authority standards cover a wide variety of topics including: organization and administration, hearing processes, parole release hearing activities, conditions of parole, and management information and research.

ACA also offers an accreditation program. Parole authorities that apply for and meet ACA standards attain accreditation, which certifies the agency meets minimum ACA standards. The Board requested and obtained funding from the legislature for ACA accreditation, and voluntarily started the process in 1999 and expects the process to be completed by January 2001. Our evaluation was separate from the ACA accreditation process and is not an indicator of whether the Board may receive accreditation.

Data Limitations

Government auditing standards require disclosure of any constraints imposed on the audit because of data limitations or scope constraints. Section 46-23-202, MCA, and administrative rules outline criteria the Board will consider when making a parole release decision. Criteria include factors related to the inmate's criminal history, institutional conduct, and rehabilitation needs. However, the Board does not compile comprehensive information on the reasons for their parole decisions, which limited our ability to report on and examine some Board activities. Due to variability in how the Board and DOC collect and report management information, our ability to examine and compare information was limited.

Chapter I - Introduction

In previous audits, we determined offender information maintained in DOC's Adult Correctional Information System (ACIS) was incomplete and some historical information has been unreliable. Consequently, our ability to use ACIS to track offender outcomes, such as placements in various programs or successful completion of programs, was limited.

DOC is in the process of developing a new offender information system. DOC is implementing the new system in three phases, and is in the process of implementing the first phase. Phase II is to be implemented 4-6 months after Phase I. The department has not set an implementation date for the third phase.

Report Organization

The remainder of this report is organized into three chapters. Chapter II provides an overview of the parole process, Board activities, and DOC activities. Chapter III addresses Board hearing and administrative activities. Chapter IV addresses Board and DOC communication and coordination.

Chapter II - Overview of Montana's Parole Process

Introduction

In this chapter, we present an overview of Montana's parole process for adult felony offenders. The chapter includes a summary of sentencing options for felony offenders, provides information about Board and DOC parole-related activities, and describes the parole process. Throughout the report, we use the terms inmate, parolee, and offender. Inmate and parolee refer to the existing placement of a person convicted of a felony, while the use of "offender" is a general term that may include any person convicted of a felony.

Sentencing Practices in Montana

Felony offenders enter Montana's correctional system upon conviction and sentencing by a district court. According to section 46-18-101, MCA, Montana's correctional and sentencing policy is to:

- < Punish each offender commensurate with the nature and degree of harm caused by the offense;
- < Protect the public by incarcerating violent and serious repeat offenders;
- < Provide restitution, reparation, and restoration to victims of the offense; and,
- < Encourage and provide opportunities for the offender's rehabilitation.

Statute provides district court judges with a variety of potential sentences and sanctions for felony offenses. Typically, judges may impose one or more sanctions. For example, a judge can sentence an offender to a prison term, to complete appropriate treatment programs, and to make restitution to the victim. The following sections summarize and describe possible sentences and sanctions.

Monetary Punishments

A district court judge may impose a fine, which is a financial punishment, as well as require offenders to pay for court costs. Restitution is a financial reimbursement to victims for losses incurred as a result of a crime. For example, an offender may be

Chapter II - Overview of Montana's Parole Process

required to pay for medical costs, counseling, or lost property that resulted from the offender's actions.

Community Service Orders

The court may require an offender provide services or labor as a punishment. Typically, offenders provide unpaid labor or service to communities or local agencies. Cleaning city parks, painting buildings, or assisting local organizations with administrative activities are examples of community service orders.

Probation

Offenders sentenced to probation serve their sentence in the community under DOC supervision. Probationers remain under the jurisdiction of the court and must follow court-ordered conditions. For example, the judge may prohibit a probationer from using alcohol or owning a checking account. If they violate probation conditions, the court may revoke probation and sentence the offender to prison or another appropriate placement. In 1999, there were approximately 5,000 offenders on probation supervision.

Prison

A district court judge may sentence an offender to a prison term. Offenders sentenced to prison must remain in prison until they discharge their sentence or the Board grants parole. These offenders are classified as inmates.

Department of Corrections Commitments

A district court judge may sentence an offender to the Department of Corrections for up to five years instead of directly to prison. These offenders, referred to as DOC commitment inmates, are placed in the custody of the department and are also considered prison inmates. DOC is responsible for determining the appropriate placement based on the inmate's current offense, prior criminal and social history, and court recommendations. The department has four placement options for DOC commitments, which are discussed further on pages 21-23:

- < Prison.
- < Prerelease center (PRC).
- < Intensive Supervision Program (ISP).
- < Boot Camp.

Chapter II - Overview of Montana's Parole Process

DOC commitment inmates remain in one of these four placements until they discharge their sentence or the Board grants parole. The department may transfer inmates among programs; for example, an inmate who successfully completes a PRC program may be placed in ISP. DOC commitment inmates must meet the same parole eligibility requirements as offenders sentenced to prison.

Parole in Montana's Correctional System

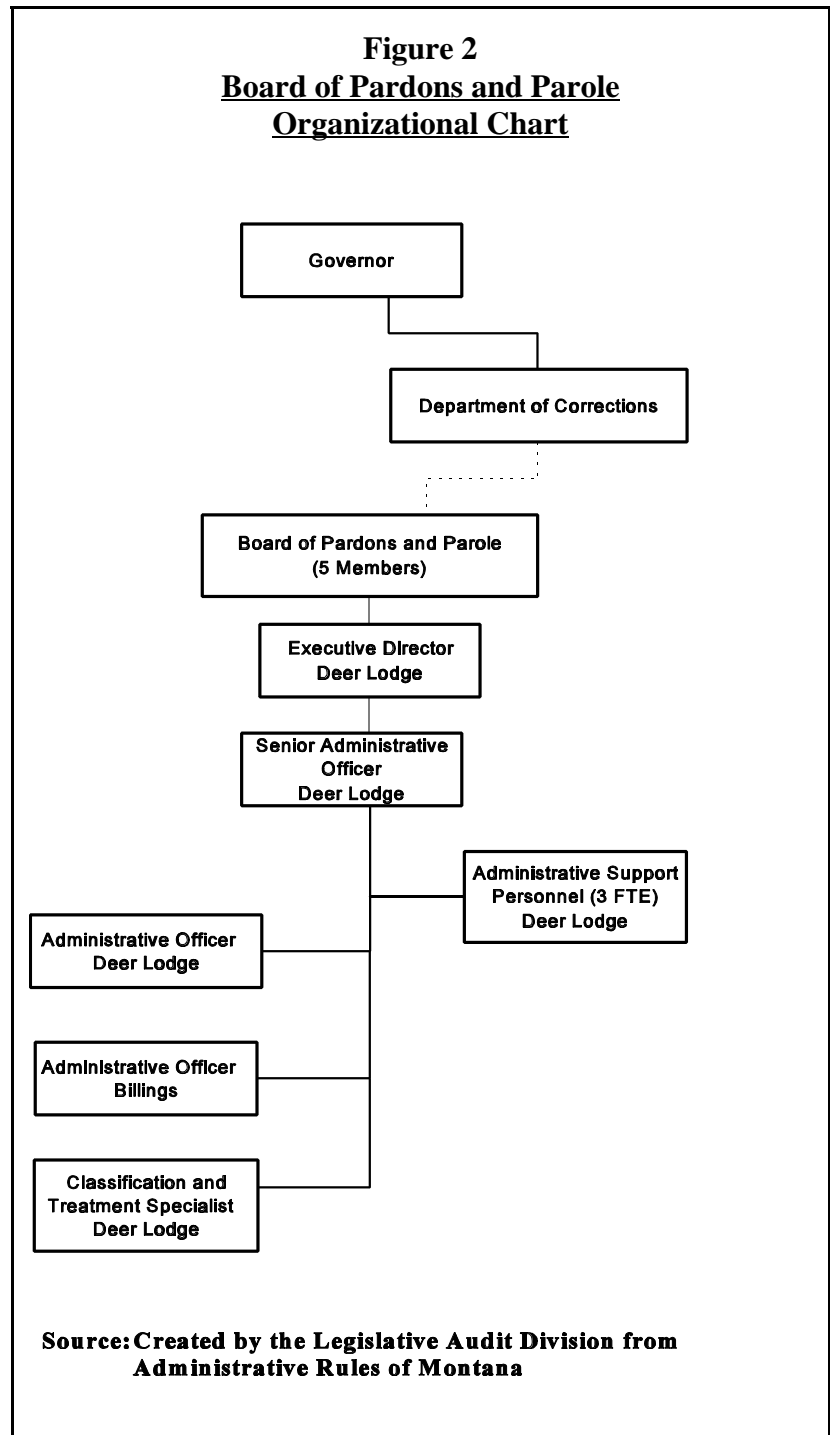
Parole is a privilege granted to some inmates that allows them to serve a portion of their prison sentence under DOC supervision in a community. Paroles are only granted when inmates demonstrate to the Board they no longer pose a threat to public safety and have demonstrated a willingness and ability to live a law-abiding lifestyle. Parole is not a reduction of an inmate's sentence, but a determination an offender can be safely supervised in the community, and the inmate's release is in the best interests of society. In Montana, the Board of Pardons and Parole is responsible for parole release decisions.

The Board of Pardons and Parole Makes All Parole Release Decisions

Section 2-15-2302, MCA, authorizes a Board of Pardons and Parole as a quasi-judicial volunteer citizen board to determine whether to release inmates onto parole. The Board is an autonomous agency, attached to the Department of Corrections for administrative purposes only. Although DOC personnel submit recommendations for parole releases to the Board, only the Board can authorize an inmate's release onto parole. The Board also determines whether parolees who violate parole conditions should be returned to prison.

Chapter II - Overview of Montana's Parole Process

Figure 1 describes the organization of the Board.



Chapter II - Overview of Montana's Parole Process

Who Are Board Members?

The governor appoints board members for staggered four-year terms. The Board consists of three regular members and two auxiliary members. Auxiliary members attend meetings and hearings in the absence of a regular board member and have the same responsibilities as regular members. Statute requires all members have professional training or practice in fields such as criminology, law, social work, or education. Additionally, at least one member must have particular knowledge about Indian culture and problems. Currently, appointed board members are from different areas of the state and live in communities near major inmate populations. Generally, regular and auxiliary members have accepted primary responsibility for conducting hearings at facilities within their area.

Board members are part-time citizen volunteers. Typically, board members spend between two and five days per month conducting parole hearings, reviewing inmate records, and performing other related business. Statute authorizes board members be remunerated \$50 per day and be reimbursed for lodging and meals at the state per diem rate while conducting Board business.

The Board Hires Staff to Conduct Regular Business

Statute authorizes the Board to hire its own staff for conducting daily business and assisting board members in performing their duties. The legislature has authorized the Board eight FTE. Board administrative staff include:

- < An executive director responsible for all Board administrative activities. The executive director also acts as a hearing officer and submits parole recommendations to the Board.
- < Three administrative officers who act as hearing officers and make parole recommendations to the Board.
- < A classification and treatment specialist who reviews inmate files to identify and make recommendations for inmate treatment and programming. The specialist also acts as a hearings officer and submits parole recommendations to the Board.
- < Three administrative support staff.

Chapter II - Overview of Montana's Parole Process

Board Staff Duties and Responsibilities

Board staff are responsible for the daily operation of Board activities, which include:

- < Tracking and scheduling inmate parole hearings.
- < Participating in Boot Camp, PRC, and ISP screening committee meetings.
- < Conducting pre-parole investigations.
- < Conducting hearings and making parole recommendations to Board members.
- < Notifying and corresponding with victims, criminal justice system personnel, and other personnel about parole hearings and other Board activities.
- < Educating inmates about the parole process and providing them necessary assistance.
- < Maintaining Board documentation of hearings and decisions.

In addition to conducting hearings and making parole recommendations, staff work with DOC personnel to evaluate inmate progress in treatment and programming, placement and supervision needs, and parole potential.

Board Funding and Expenditures

The Board is funded primarily from the General Fund. Table 1 describes Board expenditures for fiscal years 1997, 1998, 1999, and 2000.

Chapter II - Overview of Montana's Parole Process

Table 1
Board of Pardons and Parole Expenditures (Unaudited)
Fiscal Years 1997, 1998, 1999, 2000

	<u>FY 97</u>	<u>FY 98</u>	<u>FY 99</u>	<u>FY 00</u>
Personal Services and Benefits	\$206,692	\$220,605	\$239,984	\$301,122
Operating Expenses	\$39,694	\$59,749	\$48,831	\$107,786
Equipment	<u>\$2,021</u>			
Total	\$248,407	\$280,354	\$288,815	\$408,908

Source: Compiled by the Legislative Audit Division from the Statewide Accounting and Budgeting System and the Statewide Accounting, Budgeting and Human Resource System (SABHRS).

Montana's Parole Process

Montana statutes govern the parole process and the Board must ascertain compliance with eligibility criteria before granting a parole. The following section describes the parole process.

Inmates Must Be Eligible for Parole

Before the Board will consider an inmate for parole, the inmate must meet statutory, rule, and parole eligibility requirements. Section 46-23-201, MCA, sets inmate parole eligibility requirements.

- < Inmates sentenced to death may not be paroled.
- < Inmates serving a life sentence must serve at least 30 years before being eligible for parole.
- < Inmates serving a time sentence must serve at least one-quarter of their sentence. For example, an inmate sentenced to a twenty-year prison term must serve five years before being eligible for parole.

Board administrative rules also state prison inmates should have a minimum of 120 days of clear conduct in the facility, and inmates in a prerelease center (PRC) should have a minimum 90 days of clear conduct before parole consideration or release onto parole. The Board defines clear conduct as not having any severe or major

Chapter II - Overview of Montana's Parole Process

disciplinary violations, such as fighting, possessing controlled substances, or threatening another person.

District court judges may also require inmates meet certain conditions before being eligible for parole. For example, a judge may require an offender complete chemical dependency treatment before the Board can grant a parole. Judges may also require offenders serve a minimum time before being eligible for parole, or serve the entire sentence in prison without the possibility of parole.

Initial Parole Hearing Scheduled

After the Board staff reviews inmate records and verifies parole eligibility, the staff schedules the inmate for an initial parole hearing. Section 46-23-202, MCA, requires inmates make an initial parole appearance before the Board within the two months before their official parole eligibility date.

According to the Board, in 1998 730 male and female offenders made an initial parole appearance before the Board or a hearing officer. The Board granted parole to 382 offenders (approximately 52 percent) and denied parole to 348 offenders (approximately 48 percent).

Inmates May Waive Initial Parole Hearings

Board rules allow inmates to voluntarily waive their initial parole appearance for up to six months. The Board limits inmates to one waiver but may grant additional waivers for special circumstances. Inmates typically waive parole appearances because they do not feel ready for parole, or opt to delay the appearance until a time they feel they will make a better presentation to the Board. Reasons inmates commonly cite for waiving parole appearances include:

- < Need to complete treatment or programming.
- < Need to meet clear conduct requirements.
- < No desire to parole or lack a developed parole plan.

Chapter II - Overview of Montana's Parole Process

How Does the Board Decide Whether to Grant Parole?

Statute states the Board may only grant parole-eligible inmates parole if it believes:

- < It is the best interests of society to parole the inmate; and,
- < There is reasonable probability the inmate can be released without detriment to the community or to the inmate.
- < The inmate is willing and able to fulfill the obligations of a law-abiding citizen.

To evaluate whether an inmate can be released, the Board conducts a parole hearing. The inmate may appear before three board members or a designated hearing officer, typically either a Board administrative officer or a board member. Inmates appearing before a full Board receive a parole decision at the close of the hearing. Hearing officers make a parole release recommendation at the close of the hearing. The recommendation is forwarded to the Board for a later decision. Hearing officer recommendations and Board decisions are documented on a parole hearing disposition form. All Board decisions are by majority vote of the attending members. According to statute, Board decisions are final and not reviewable.

Parole disposition forms also document other requirements for inmates, either conditions before release will be considered or conditions of parole. Additional requirements are intended to promote rehabilitation and transition to a law-abiding lifestyle. For example, the Board may require an inmate to complete a chemical dependency program before the Board will consider a release or require the inmate to continue participation in chemical dependency rehabilitation programming in the community as a condition of parole.

What Information Does the Board Consider?

To determine whether an inmate can be released, section 46-23-202, MCA, requires the Board consider the following factors:

- < The circumstances of the offense.
- < The inmate's previous social and criminal history.
- < Reports from institutional staff about an inmate's institutional conduct and activities.

Chapter II - Overview of Montana's Parole Process

- < Reports of mental and physical examinations.
- < Testimony from victims and criminal justice system representatives.
- < Reports from Board staff.

The Board also considers an inmate's parole release plan which describes the inmate's proposed employment and residence. Parole plans may also include who will provide required treatment or follow-up care in the community.

At the parole hearing, the inmate may present information to the Board or hearing officer and have representatives speak on his behalf. Victims, criminal justice system personnel, and other interested persons may also present information about the inmate's proposed release. The Board does not require victims attending a hearing be present at the same time as an inmate. During the hearing, the Board may ask questions of the inmate, the department, victims, and other witnesses before making a final decision.

What Happens When the Board Grants Parole?

If the Board decides a parole release is appropriate, the inmate's file and release plan are forwarded to the appropriate local probation and parole office for a field investigation. The local office verifies information in the parole release plan is correct and determines whether elements of the plan are acceptable. According to DOC policy, the local probation and parole office has 30 days to review and investigate a parole plan. If the local office denies all or part of a plan, the file is returned to the Board. The Board then informs the inmate of the problems, and the inmate may submit a revised plan to address reasons for denial. Plans approved by the local office are returned to the Board, a formal release date is set, and a parole certificate is issued to the inmate. Before the inmate is released onto parole, the inmate must agree to and sign the rules of parole. He then receives instructions for reporting to his assigned probation and parole office, where they are subsequently assigned a parole officer. In fiscal year 2000, the Board granted parole to 602 inmates.

Chapter II - Overview of Montana's Parole Process

What Happens When Inmates Are Denied Parole?

When an inmate is denied parole, the Board schedules a subsequent hearing or review. Subsequent reviews allow the Board an opportunity to evaluate an inmate's rehabilitation efforts and progress. The Board may:

- < Schedule the inmate for a reappearance, typically within a year. Of 376 inmates who reappeared before the Board in fiscal year 2000, 155 (41 percent) were granted parole and 221 (59 percent) were denied parole. The reappearance statistic shows one of two things: data on offenders who met the majority of the Board's expectations for parole consideration during a prior hearing but needed to meet some other requirement prior to being granted parole; or the Board determined circumstances warranted a reappearance. Board staff did not compile data on reasons why more than half of those offenders who were given a reappearance status were subsequently denied parole or data on subsequent length of stay after the reappearance denial.
- < Place the inmate on annual or biennial review. A review is an administrative process, and most inmates do not appear before the Board or a hearing officer. However, inmates on review status may submit new information for Board consideration. At a review, the Board may grant the inmate parole or schedule a parole hearing. During fiscal year 2000, the Board conducted 390 annual or biennial reviews. At these reviews, 52 offenders (13 percent) were granted parole and 338 (87 percent) were denied parole.
- < Pass to discharge (serve remainder of sentence). Inmates passed to discharge must serve their entire sentence in prison, and the Board does not reconsider these inmates for parole. Inmates with more than two years remaining on a sentence are typically not passed to discharge. However, inmates not interested in parole may request the Board allow them to pass to discharge. During fiscal year 2000, the Board passed to discharge 330 inmates. The Board does not track inmates who requested a pass to discharge.

Chapter II - Overview of Montana's Parole Process

Table 2 describes the parole eligibility status of inmates in Montana prisons and programs as of June 30, 1998.

Table 2
Inmates Eligible for Parole
As of June 30, 1998

Status	Number of Inmates	Percentage of Inmates
Ineligible for parole by sentence	88	3%
Not yet parole eligible	1,075	39%
Annual/Biennial Review	515	19%
Parole conditional upon successful completion of PRC or ISP placement	449	16%
Scheduled for reappearance	265	11%
Waived a Board appearance	265	10%
Other type of parole status	61	2%
Total	2,718	100%

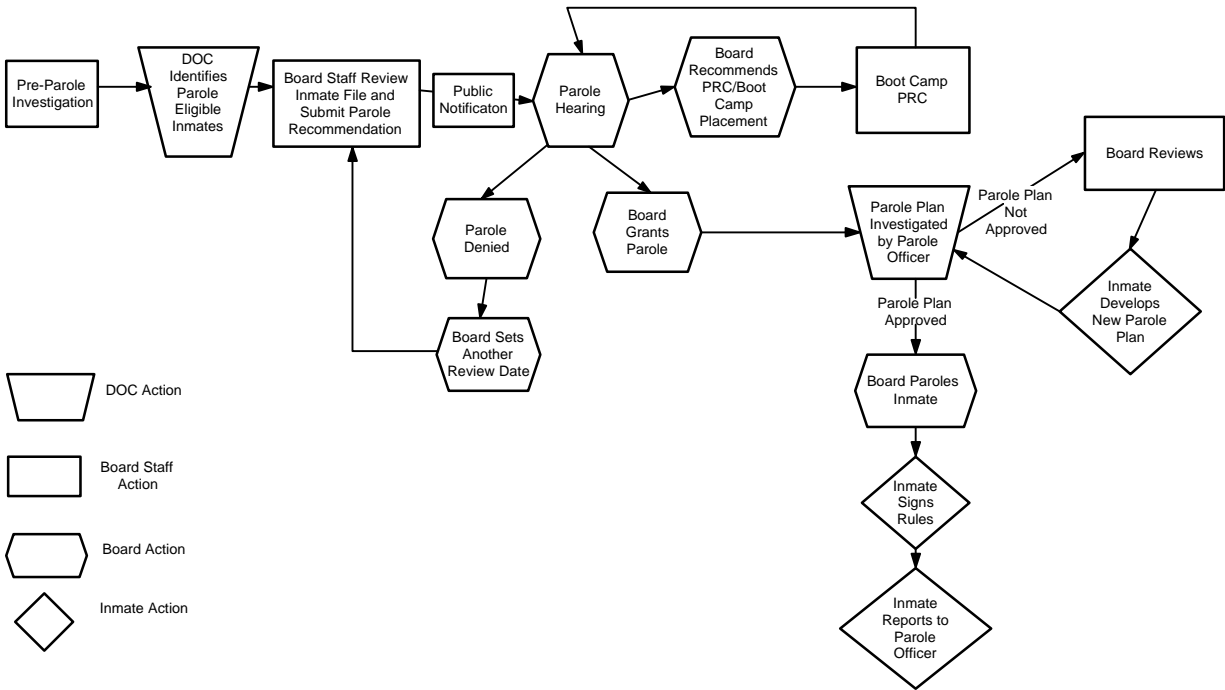
Source: Compiled by the Legislative Audit Division from
Board of Pardons and Parole 1998 Biennial report.

For fiscal year 2000, the Board reported the average amount of time served until an inmate's initial parole hearing was 25 months. The average time served until an inmate is granted parole is 32 months.

Figure 2 is a flow chart of the parole process, and Figure 3 illustrates potential outcomes of parolees on parole supervision.

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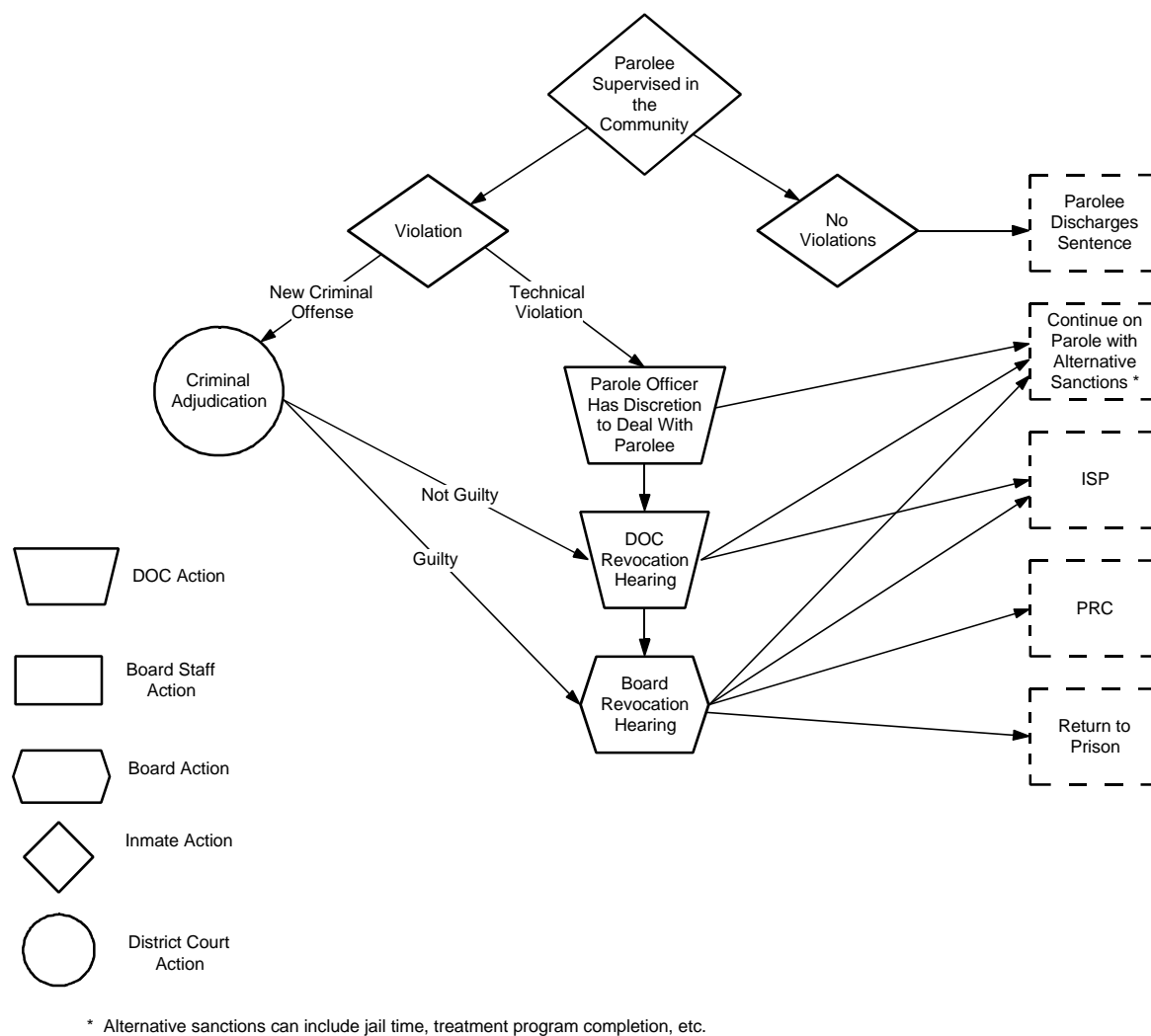
Figure 3
Montana's Parole Decision Process



Source: Created by the Legislative Audit Division from Board and DOC documentation.

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Figure 4
Parolee Outcomes on Parole Supervision



Source: Created by the Legislative Audit Division from Board and DOC documentation.

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Some Inmates Can Still Earn "Good Time"

Montana has had several "good time" laws throughout history that can affect either an inmates's time to parole eligibility or length of sentence. Inmates convicted of offenses committed before April 13, 1995, can earn good time that reduces the length of time to parole eligibility and the length of their sentence. Inmates convicted of crimes committed between April 13, 1995, and January 30, 1997, earn good time that can reduce the length of their sentence, but must serve a minimum of one-quarter of their initial sentence before becoming eligible for parole. Inmates convicted of crimes committed on or after January 31, 1997, cannot earn good time.

Good time was designed to promote positive inmate behavior, allowing inmates to reduce their sentences in return for good institutional behavior. Typically, inmates earned day-for-day good time. That is, a day of good behavior reduced their sentence by one day. Inmates violating prison rules could forfeit all or a portion of their earned good time. Since eligibility for good time is based on the date of the offense, parolees or probationers who committed offenses before January 31, 1997, may still earn good time if they are placed in prison for probation or parole violations.

The Board Sets Conditions for Parole

When an inmate is granted parole, the Board also sets conditions or requirements an inmate must follow while on parole. Parole conditions are designed to protect society, promote a law-abiding life, and provide for restitution to victims and society. Standard parole conditions require parolees to:

- < Report to their parole officer as directed.
- < Live in an approved residence and obtain permission from their parole officer before traveling outside of their assigned area.
- < Maintain approved employment.
- < Not own or possess any firearms or deadly weapons.
- < Submit to searches upon reasonable cause without a warrant.
- < Comply with all laws and ordinances.

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Additionally, the Board may impose other special conditions it considers necessary to promote public safety and encourage successful completion of parole. Examples of special conditions are:

- < Pay court-ordered restitution.
- < Prohibit contact with victims.
- < Prohibit living or working in a specific area.
- < Prohibit use or possession of intoxicants.
- < Prohibit having a checking account.
- < Participate in counseling or therapy.
- < Submit to breath or body fluid testing for intoxicants or illegal drugs.

The Board may also change or impose additional parole conditions while offenders are on parole. Parolees who violate conditions may be returned to prison at the Board's discretion.

Other Types of Board Hearings

In addition to parole hearings, the Board also conducts rescission and revocation hearings.

Rescission Hearings

Between the time the Board grants an inmate parole and the inmate is released, the Board may rescind an inmate's parole for cause. Commonly, rescissions occur when inmates violate disciplinary rules or fail to successfully comply with a Board requirement, such as completion of a treatment program. The Board may also rescind parole if an inmate's parole plan changes or new information is received indicating parole is not appropriate. The Board reported it rescinded 53 paroles during fiscal year 2000.

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Revocation Hearings

Parolees arrested for parole violations while under supervision in the community may appear before a DOC hearing officer to determine whether there is reasonable cause to revoke an inmate's parole. If the hearing officer determines reasonable cause exists, the case is forwarded to the Board for a revocation hearing. At the revocation hearing, the inmate is permitted an opportunity to plead guilty to the allegations or present a defense. If the Board finds the parolee guilty of the alleged violations, it considers aggravating and mitigating circumstances and issues a decision to the inmate. Depending on information presented at the hearing, the Board may:

- < Revoke the parole and return the inmate to custody.
- < Revoke the parole and reparole the inmate with new conditions.
- < Reinstate the inmate's parole and allow the inmate to return to the community. The Board may also modify or change parole conditions.

During fiscal year 2000, the Board returned 140 parolees to prison for violating conditions of parole and returned 16 parolees to prison for committing new crimes. The Board required alternative placements for 34 parole violators, such as return to parole with new conditions or placement in a prerelease center or the Intensive Supervision Program.

The Department of Corrections Provides a Variety of Offender Placement and Treatment Options

Historically, the Board has had two primary parole options: keep the inmate in prison or grant the inmate parole. Currently, DOC's Community Corrections Division provides the Board a variety of placement and treatment options for male and female offenders. The Board may require an inmate complete one or more of the programs. The following sections describe DOC-funded placement options and treatment programs used by the Board.

Prerelease Centers

Prerelease centers (PRCs) are private nonprofit corporations providing 24-hour monitoring of male and female offenders in a community residential setting. PRCs are diversion programs that accept offenders who would otherwise be sent to prison and inmates in need of a transitional placement before parole. Inmates must apply for PRC placement and be approved by DOC and community

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screening committees. Most inmates complete a PRC program in six to twelve months.

PRCs offer inmates treatment programs, life skills training, and other guidance, and require inmates work, pay a portion of their room and board, and participate in required treatment or counseling. The Board typically paroles inmates who successfully complete a PRC residency. The department contracts for PRC beds in four communities:

- < Billings (105 male beds; 17 female beds)
- < Butte (90 male beds; 40 female beds)
- < Great Falls (80 male beds; 28 female beds)
- < Missoula (80 male beds; 20 female beds)

The department has also approved the placement of a PRC in Helena, which is under development. This facility is expected to provide services for 40 males. DOC expects the facility to begin accepting offenders in May 2001.

Intensive Supervision Program

The Intensive Supervision Program (ISP) is a nine-month transitional program for male and female inmates the Board might not otherwise consider or parole at that time. The department also places probationers and DOC commitments into the program. Offenders must apply for the program and a community screening committee must approve all placements.

ISP is administered by designated probation and parole officers with small caseloads that allow frequent contact with offenders. Program participants must follow curfews and approved schedules. The program also uses electronic monitoring to verify offender compliance with schedules, and officers regularly test offenders for drug or alcohol use. ISP programs are located in:

- < Billings (60 offender slots)
- < Bozeman (45 offender slots)
- < Great Falls (45 offender slots)
- < Kalispell (36 offender slots)

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< Missoula (60 offender slots)

In October 2000, the department is establishing an ISP in Butte, with 30 offender slots.

Treasure State Correctional Training Center (Boot Camp)

The Treasure State Correctional Training Center (boot camp) is a military-style training program that includes rigorous physical training and intensive treatment and programming. The program, which accepts male and female inmates, has beds for 50 inmates and is located on Montana State Prison grounds in Deer Lodge. Inmates must volunteer for the program. Trainees who successfully complete the program must also complete an aftercare component at the PRC in Great Falls. The aftercare program can accept up to 20 trainees. After successful completion, inmates may apply for a sentence reduction from the sentencing judge. Typically, a sentencing reduction results in changing a prison sentence to probation, at which time the offender is no longer under the jurisdiction of the Board.

The Board may also recommend boot camp to inmates and grant parole upon successful completion. These offenders remain under the jurisdiction of the Board.

DOC Provides Treatment and Programming to Offenders

The department provides a variety of assistance, rehabilitative treatment, and programming options for inmates. Treatment options include sex offender programming (SOP), chemical dependency treatment (CD), and mental health treatment. Behavior restructuring programs are designed to help inmates learn and understand acceptable social behaviors. Additionally, inmates can earn a general equivalency diploma (GED), and other educational and vocational opportunities are available.

Availability of programming varies by type of facility and contract. Montana State Prison (MSP) and Montana Women's Prison (MWP) provide all levels of programming. Regional and private prisons and PRCs provide CD treatment and educational and behavioral programming. One regional prison and the private prison in Shelby offer SOP.

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According to DOC managers, the department has standardized treatment and programming among facilities and PRCs to improve portability of programming. That is, inmates can enroll in most treatment or programs at any facility, and can transfer between prisons and PRCs without disrupting programming started at another facility.

The department also employs institutional probation and parole officers (IPPOs) to help inmates prepare for release from prison. IPPOs help inmates develop viable parole plans and secure employment and housing. IPPOs also work with other DOC and Board staff to address questions and concerns about inmate release plans.

Furloughs

Section 46-23-215(3), MCA, gives the department authority to grant furloughs to inmates. Furloughs are temporary releases from prison so inmates can look for employment, look for housing, or meet other parole release conditions. Statute limits furloughs to inmates already granted a parole but unable to meet release conditions while in prison. Furloughs are limited to ten days and the department may grant one ten-day extension. Inmates on furlough must stay in a DOC-approved residence, report daily to the local probation and parole office, and comply with any other department or Board requirements. The Board released 10 inmates from prison on furlough during fiscal year 2000.

How Are Parolees Supervised in the Community?

DOC's Community Corrections Division (division) is responsible for supervising and monitoring parolees for the Board. Supervision may include visits to the parolee's residence and interviews with employers, family members, and treatment providers. The division uses a risk analysis tool to set supervision levels. The division is in the process of implementing new supervision standards for parolees and probationers. According to DOC, new standards provide increased supervision and more emphasis on employment and payment of restitution and fines. Table 3 describes the division's new parole supervision standards.

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Table 3
Parole Supervision Standards

Supervision Level	Written Report	Officer Contact	Home Contact^{1,2}	Employer Contact^{1,2}	Collateral Contact³
Level I ⁴	Monthly	Weekly	Monthly	Monthly	Monthly
Level II ⁴	Monthly	Semi-monthly	45 Days	45 Days	Monthly
Level III	Monthly	Monthly	Bimonthly	Bimonthly	Every three months
Level IV	Monthly	Semi-annually	Semi-annually	Semi-annually	Semi-annually
Level V (CDFS ⁵)	Annually	NA ⁶	NA ⁶	NA ⁶	Annual Criminal Records Check

1 Includes verification of residence and employment.

2 Officers must verify within 30 days any reported or suspected changes.

3 Collateral contacts may include treatment providers, law enforcement, family members, or other persons involved with the offender.

4 All new parolees are supervised at Level I or II.

5 Conditional Discharge from Supervision (CDFS) is limited to offenders who have fulfilled all court-ordered and Board ordered supervision conditions and have demonstrated more frequent supervision is unnecessary.

6 Offenders must maintain contact and report any changes in residence or employment. Officers must verify any reported changes.

Source: Compiled by the Legislative Audit Division from DOC documentation.

Costs Vary Among Placement Options

Costs for placing offenders in prison or in community-based placement options vary significantly. Prisons generally have the highest costs and community-based programs are less costly. Additionally, offenders placed in PRCs, ISP, and regular parole pay a portion of their supervision costs. Table 4 describes DOC-reported per day costs for different types of supervision.

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Table 4
Average Daily Cost for Offenders
In DOC Facilities and Programs (Unaudited)
Fiscal Year 1999

<u>Facility/Program</u>	<u>Average Daily Cost*</u>
Montana State Prison	\$ 61.36
Contract Beds (Male)	56.36
Montana Women's Prison	107.96
Contract Beds (Female)	71.82
Boot camp	97.60
Male Prerelease	45.49
Female Prerelease	55.68
ISP	12.99
Parole (Male and Female)	4.22

* Average daily cost per inmate does not include outside medical expenses.

Source: Compiled by the Legislative Audit Division from DOC records.

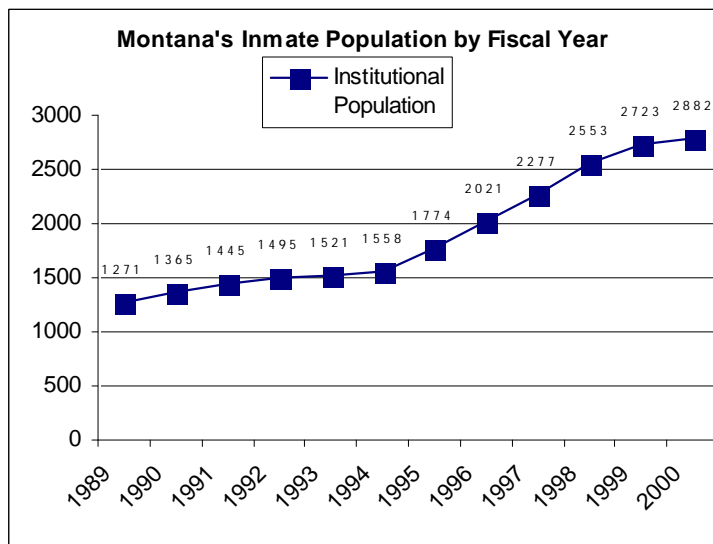
In the next chapter, we discuss our findings and recommendations related to Board activities.

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Montana's Changing Correctional System

Montana's correctional system has changed substantially. Between 1989 and 1999, Montana's average daily inmate population more than doubled, increasing from 1,271 to 2,723 inmates. DOC is forecasting inmate populations could exceed 3,500 inmates by the end of fiscal year 2003. Figure 4 illustrates increases in Montana's inmate population.

Figure 4
Montana's Inmate Population by Fiscal Year



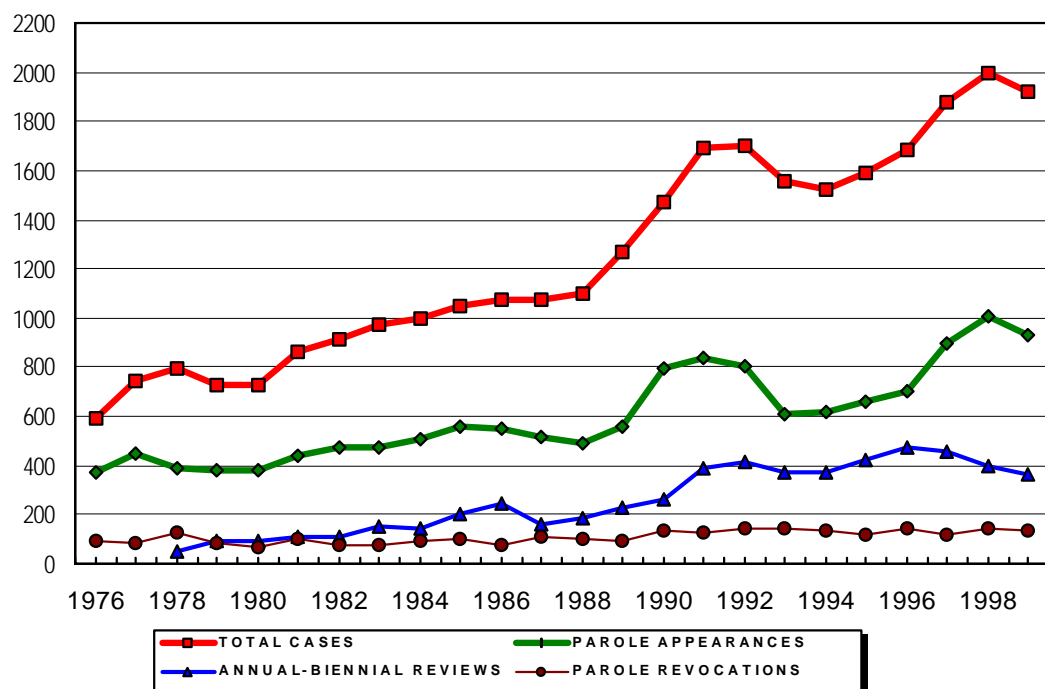
Source: Created by the Legislative Audit Division from DOC records.

To respond to the need for increased prison beds, Montana has helped fund three jail/prison facilities located in Cascade, Dawson, and Missoula counties, and has contracted for inmate beds with a private prison located in Shelby. Additionally, DOC has expanded community-based programs to most of the larger communities in the state.

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Historically, Board activities were limited to the Deer Lodge valley where Montana's primary prison facilities were located. Rising inmate populations and implementation of a multi-facility prison system have increased the demands placed on the Board. Figure 5 describes changes in Board caseloads and parole-related activities from 1976 to 1999.

Figure 5
Board of Pardons and Parole Caseload
CY 1976 Through 1999



Source: Created by the Legislative Audit Division from Board records.

In the past, the Board and legislature have responded to increased workloads by modifying practices and statutes to help ensure

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compliance with statutory parole hearing timeliness requirements.

Modifications to Board practices included obtaining:

- < Statutory authority to use hearing officers to conduct parole interviews. (1981)
- < Legislative approval for an additional auxiliary member in 1979 and 1995 to act as a board member and hearing officer. An auxiliary member acts in the absence of a regular board member. The Board also uses auxiliary members to act as hearing officers. (1979 and 1995)
- < Legislative authorization to use telecommunications to conduct parole hearings and reviews, although the Board has not used this option. (1999)
- < Legislative approval for two additional administrative officers who review inmate cases, submit recommendations, and act as hearing officers. (1999)

Using these strategies, the Board has been able to hold initial parole hearings within the time required by statute. However, Board application of these strategies has resulted in inconsistencies in Board practices and its presence at prison facilities. Additionally, these strategies do not appear to fully address board workload issues resulting from correctional system expansion.

In the following sections, we discuss how increasing inmate populations and distribution of prison facilities and community-based programs throughout Montana have affected Board operations. We present two conclusions on how Montana's changing correctional system has affected Board activities. We also provide a recommendation for addressing future resource needs.

Montana's Expanding Correctional System Impacts Board Representation at Initial Parole Hearings

Rising inmate populations have increased Board workloads. Additionally, expansion and distribution of correctional facilities and programs throughout the state have further increased demands placed on the Board. Currently, regular and auxiliary board members spend between two and five days a month reviewing inmate files, attending hearings, or conducting other business. According to board members who volunteer their time, travel and

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caseloads increasingly conflict with their professional and personal responsibilities. The Board has responded to increased workload by using hearing officers to conduct parole hearings at some facilities.

Statutes Are Inconsistent in Authorizing the Use of Hearing Officers

Section 46-23-104, MCA, authorizes the Board to designate hearing officers to conduct interviews relative to parole eligibility and releases. The Board sought this statutory language from the 1981 Legislature, and subsequently interpreted this statute as authorizing hearing officers to conduct any hearing, including an initial parole hearing. However, section 46-23-202, MCA, was not changed and still requires an inmate's initial parole appearance occur before the Board as defined in statute. Montana statute defines the Board as those members appointed by the governor. Additionally, 20.25.401, ARM, which addresses hearing procedures, references an inmate's "personal appearance" before the Board for parole hearings. Our interpretation of the statutes and rules indicates because section 46-23-202 was not changed, an inmate's appearance before a hearing officer does not fully address statutory and rule requirements for conducting initial parole hearings.

Conclusion #1

By using hearing officers for conducting initial parole hearings, the Board has continued to ensure initial parole hearings are held in a timely manner. However, the Board needs to seek clarification from the legislature to address the inconsistency in law.

Board Practices Vary Among Facilities

During the audit, we noted Board presence varies among facilities. Inmates at MSP and MWP have the most contact with board members and staff, while inmate contact with Board representatives at other facilities is more limited. For example,

- < Inmates at MSP appear before a full board and are informed of parole release decisions at their hearings. At other facilities, inmates appear before a hearing officer who informs the inmate of his parole recommendation, but the

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inmates waits several weeks until a full Board convenes to make a decision.

- < Board staff conduct preparole classes at MSP and MWP. During the class, Board representatives inform inmates about the parole process and provide individual assistance to inmates needing help preparing parole plans and parole applications. Inmates at private and regional prisons are shown a video presentation of the class, but a Board representative is not available to answer questions or provide assistance with the applications. Inmates at one regional prison were neither shown the video presentation nor provided a class by Board staff.
- < Inmates received into the prison system complete an intake process to determine placement and programming needs. The intake process at MSP includes a Board representative who reviews offender files and recommends treatment and programming needs to be completed before the Board will consider parole. The Board representative also informs the inmate about the parole process and Board expectations of inmates who want to earn a parole. Board staff have not been involved in the intake process at other facilities.

According to the ACA, qualified personnel should provide inmates with timely assistance with the parole process. Differences in staff activities among facilities may impact how well inmates understand the parole process and how well inmates are prepared for parole hearings. Potentially, these differences can affect parole release decisions, and ultimately inmate populations. Consequently, we believe Board practices at MSP and MWP most closely adhere to ACA standards and best prepare inmates for parole.

The Board recently established a satellite office in Billings, which will allow a Board representative to participate in the intake process at MWP. However, travel to other facilities to provide preparole classes or participate in the intake process is considered resource-prohibitive in terms of time and costs. While few inmates are placed in regional prisons without processing through either MSP or MWP, increasing inmate populations and need to remove inmates from county jail holding systems may increase the number of inmates placed directly in regional prisons.

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Conclusion #2

The Board's structure has remained unchanged despite rising inmate populations and transformation to a multi-facility system. The existing Board structure within the expanding correctional system limits the Board's presence at some facilities, as well as their interaction with inmates.

The Board Needs to Conduct a Resource Analysis

As mentioned in the previous two sections, Montana's expanding correctional system has affected, and will continue to affect, Board activities. To address the issues presented in our previous two conclusions, the Board will need to examine the parole process and its resources to address projected increases in inmate populations and ongoing changes to the correctional system. In the following sections we present options for modifying Board practices and changing the Board's structure to address the issues presented.

Address Board Size and Structure

The Board could seek legislative changes to its structure. Since the legislature created the first parole authority in 1907, the Board has consisted of three members who are responsible for parole decisions. The legislature has added two auxiliary members, one in 1979 and one in 1995, to act in the absence of regular members. Our review of Board documentation indicated auxiliary members regularly conduct hearings to ensure inmates receive hearings in accordance with statute and policy, as opposed to just being replacements for absent board members.

The legislature could again address the size of the Board by adding more auxiliary members who could act as hearing officers, which would further disperse the workload among more members. However, a full board must still review all cases and make parole decisions; thus adding more auxiliary board members will not completely address the overall workload issue.

The legislature could increase the size of the Board, which would also change the quorum for Board decisions. For example, the

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Idaho Pardons and Parole Commission consists of a five-member panel. Parole decisions require a majority vote. The entire commission meets quarterly to review cases and conduct commission business. Three of the five commissioners meet monthly to make parole decisions. If the three commissioners do not all agree on a parole decision, the case is continued until the next quarterly meeting for a final vote by all five commissioners.

Another option is changing the structure of the Board in conjunction with adding more board members. For example, the legislature could create a pool of appointed members from which multiple boards could be empaneled around the state to conduct hearings and make parole decisions. Similar practices exist in other states, and the federal appellate court system uses judicial panels to review legal decisions. Increasing the number of appointed board members would ensure the board maintains the sense of community and independence from the system that exists with the current structure.

Another option is to employ board members. According to the Board, approximately 75 percent of the states with parole boards employ one or more part-time or full-time members. Employed board members would typically devote more time directly to parole activities.

All the above options have cost implications. In addition to training costs, adding board members will increase per diem and travel expenses and likely require additional FTE. According to Board documentation, a 1997 survey indicated the average salary of an employed parole board chairman was approximately \$73,000.

Increase the Use of Hearing Officers

Another approach to address growing numbers of parole hearings is to increase the use of hearing officers. Implementing this strategy would require legislative clarification authorizing the use of hearing officers for initial parole hearings. Using hearing officers at MSP would relieve board members of some hearing responsibilities, but does not fully address workload issues for a three-member board still required to review cases and hearing officer recommendations and make parole decisions. Additionally, it may impact the

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workload of Board staff who would need to conduct MSP hearings and submit recommendations to the Board for later review. Potentially, this option would require more Board administrative staff.

Use Technological Resources

The Board could implement the video-conferencing authority it has for conducting hearings. Video-conferencing would not address specific workload issues related to the number of hearings and reviews, but it could reduce travel demands placed on board members and staff. The Board currently has a Montana Educational Teleconferencing Network (METNET) site installed in its hearing room at MSP, and all communities with a PRC or ISP have METNET sites. However, implementing video-conferencing would likely require purchasing and installing equipment for hearings in regional and private prisons to address security and public safety concerns. The Board would also incur operating expenses for using the METNET system.

Board staff have expressed concern that video-conferencing would reduce the face-to-face contact with inmates the current process provides. However, using METNET to conduct hearings would provide several benefits, such as:

- < Reducing board member travel.
- < Reducing staff travel and increasing staff time for case reviews and other administrative activities.
- < Reducing travel requirements for victims and other interested parties who want to attend hearings.

Additionally, the Board, DOC, and other agencies could use METNET sites for other activities such as staff training, conferences, and meetings.

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Summary

Our review of past Board activities and projected increases in inmate populations indicates the number of Board hearings and reviews will continue to increase, potentially beyond the capabilities of existing practices, structure, and resources. Previously in this chapter, we concluded:

- < Board practices for conducting initial parole hearings do not fully address statutory and rule hearing requirements.
- < Rising inmate populations have substantially increased the number of hearings conducted and decisions the Board must make
- < The expanded correctional system has affected the ability of the Board and its staff to have a similar presence at all facilities, which may affect inmate preparation for parole and subsequent hearing outcomes.

We believe the Board needs to conduct an analysis of current and future workload issues to identify appropriate resource needs. Additionally, the Board should identify and develop proposals for addressing increased workload and present detailed options to the legislature for potential legislative changes to the size and structure of the Board.

Recommendation #1

We recommend the Board:

- A. Seek legislative clarification for authorizing the use of hearing officers to conduct initial parole hearings.**
- B. Conduct a detailed analysis of its future resource needs and present the analysis to the 2003 Legislature.**

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The Board Can Improve Collection and Reporting of Management Information

Historically, Board management information has focused primarily on numbers of hearings, reviews, and revocations. Changes in correctional philosophy, need for public accountability, and increased demands on the correctional system increase the need for management information to evaluate agency activities and forecast offender populations and correctional system resource needs. Since Board decisions substantially affect inmate populations and correctional system expenditures, it has a responsibility to monitor, evaluate, and report on all agency activities.

Board Activity Report Is Accurate but Could Better Describe Its Activities

Information we examined in the Board's biennial report appeared accurate and provided a general overview of its activities. However, the Board staff could collect and report additional information to more fully describe its activities and role in the correctional system. Most information Board staff collect and compile relates primarily to agency output, such as the number of parole hearings conducted, cases reviewed, or inmates granted or denied parole. Board staff do not collect or report management information related to its decision-making processes or impacts on the correctional system, such as:

- < Needs of inmates denied parole.
- < Rates at which the Board paroles inmates.
- < Time inmates remain in prison after the Board denies parole at an initial hearing.
- < Reasons inmates are denied parole at initial hearings and/or subsequent hearings or reviews.
- < Reasons for revoking parole (e.g., types of technical violations).
- < Reasons inmates waive appearances.
- < Numbers of inmates passed to discharge or inmates requesting a pass to discharge.
- < Time between when parole is granted and an inmate is released onto parole.

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This information can be critical for understanding the parole process and determining whether modification of Board and/or DOC practices will improve operational effectiveness. For example, according to Board documentation, approximately one-half of parole-eligible inmates waive their initial parole appearance. Inmates may waive their initial hearing for up to six months, which potentially delays parole releases for some of these inmates and ultimately increases correctional system costs. However, the Board does not track or evaluate reasons for waivers to determine whether system modifications might initiate a more timely release of inmates who would be paroled at an initial hearing.

Additionally, Board staff track management information as raw data without examining or reporting information in correlation with other activities or factors, which limits the effectiveness of the information. For example, presenting the number of paroles granted each year has limited informational value because it is not placed in context with the number of hearings or parole-eligible inmates. Other presentations of collected data, such as the rate of paroles granted, would allow for more detailed evaluation of Board practices and its impact on the correctional system.

Board Documentation Limits Evaluation of Its Decision-Making Activities

We found the Board's decision-making process is documented on case disposition forms. These forms, which are signed by two board members, outline reasons for parole denials. There are three basic categories on the disposition form used to document why the Board denied an inmate parole. Within each category are subcategories that further explain the Board's reasons for denying parole. Categories for denying parole are:

- Category 1: The inmate is not able and willing to fulfill the obligations of a law-abiding citizen. Board members may document reasons such as need for improved work evaluations or institutional behavior.
- Category 2: There is reasonable probability the offender cannot be released without being a detriment to the offender or the community. Subcategories in this section relate to criminal history factors, prior

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parole/probation supervision, and objections from victims or agencies in the criminal justice system.

Category 3: The inmate needs additional education, vocational training, treatment, or continued treatment to enhance success on parole and further ensure the applicant is willing and able to fulfill the obligations of a law-abiding citizen.

Board members may use one or more of the categories or subcategories to justify why they denied an inmate parole. Our review of disposition forms and Board agendas revealed the Board frequently cites “prior criminal history” or “the nature and severity of the offense” as reasons for denying inmates parole. However, neither statute nor Board rules define these criteria or how the Board should apply the standards to individual cases. Without defining the criteria, the Board and outside agencies have limited ability to make broad-based evaluations about its decisions. For example, what time frame should the Board consider when determining whether an inmate’s previous criminal history is a risk factor? Similarly, should the Board consider specific aggravating or mitigating circumstances when determining the “nature and severity of the offense?”

Although Montana’s parole statutes and the Board do not specify how criteria are to be practically applied, some statutes and DOC policies define how criminal history factors will be applied to specific cases. For example, section 46-18-225, MCA, requires judges to consider specific criteria before sentencing a nonviolent offender to prison, such as whether:

- < The offender committed the crime under provocation.
- < The criminal conduct was the result of circumstances that are unlikely to recur.
- < The inmate has made or is likely to make restitution to the victim.
- < There are substantial grounds tending to excuse or justify the offense, though failing to establish a defense.

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Other examples where detailed criteria are developed for decision-making include:

- < Sentencing persons as persistent felony offenders (statute).
- < Sentencing persons convicted of a capital offense to death (statute).
- < Classification standards for inmates and supervision standards for parolees and probationers (DOC policy).

Establishing criteria and formally applying criteria uniformly in its decision-making processes can improve an agency's ability to substantiate and increase the credibility of its decisions.

The Board is developing a risk assessment tool for assisting with parole decisions. The Board expects to complete testing of the tool in the summer of 2001 and have results to the legislature in 2003.

Summary

Comprehensive management information is critical for an agency to monitor and evaluate its activities and decision-making processes and to maintain accountability and reporting responsibilities. Additionally, the Board should define and document criteria it uses for making parole release decisions. Without comprehensive information, neither board members, management, nor outside agencies can fully monitor changes in Board practices or measure whether it has reached its goals and objectives.

Recommendation #2

We recommend the Board of Pardons and Parole:

- A. Revise its current management information collection efforts to report more information regarding how its activities relate to its goals and objectives.**
- B. Define and document criteria used for determining individual parole release decisions.**

Chapter IV - Improving Interdependent Board and DOC Parole Processes and Activities

Inter-Agency Communication and Coordination

Since many Board and DOC activities are interdependent, and each agency's decisions can impact the correctional system, one of our objectives was to examine communication and coordination between the two agencies. The two primary areas of communication and coordination we examined related to management of information and parole system activities. In this chapter, we present our findings and make recommendations to the Board and DOC.

The Board and DOC Have Good Informal Communication and Coordination

Interviews with Board and department personnel and observations of their activities indicate the two agencies have good communication and coordination on a case-by-case basis.

The Board and DOC Can Improve Formal Coordination of Activities and Resources

Good communication has been defined as the interchange of thought or information to bring about mutual understanding and confidence or good human relations. Agencies rely on two primary methods of communication. Informal communication is essential for managing routine activities. Formal communication strategies are essential to ensuring systemwide coordination of resources. In the following sections, we present findings and recommendations related to interagency communication and coordination.

A Resource Manual Could Improve Board Coordination With the Correctional System

In our audit planning, we determined the Board relies upon laws and rules, which are general in nature, to aid in making parole decisions, as opposed to established criteria outlined in a policy and procedure manual. To help determine whether such a manual is needed, we reviewed Board documentation and interviewed Board personnel. We noted some Board practices are based on informal policies. For example, parolees violating parole conditions are typically not eligible for parole reconsideration for a year or more, although there is no apparent formal reason for using these time periods. In addition, some Board members have expressed a need for further guidance on certain decisions or clarifying certain Board practices or duties.

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Both ACA standards and best management practices strongly suggest an agency have a resource manual to guide and explain practices and policies.

Montana relies on part-time citizen volunteers to make parole decisions. While board members may be knowledgeable about the correctional system, they face a complex array of programs, agencies, jurisdictions, and practices. A formal resource manual describing system policies, practices, procedures, as well as comprehensive descriptions of available programs and resources would provide additional guidance to board members. Since DOC has primary responsibility for offender custody and rehabilitative programming, the Board should coordinate development of a resource manual with the department.

A formal resource manual would provide several benefits to board members and staff, including:

- < Increase board member and staff awareness about available resources and the intent and use of programming options.
- < Provide members and staff with a valuable training and information tool.
- < Promote consistency in Board decisions.

Although the Board has a limited resource manual for new members, it has not developed a more detailed manual due to concerns that established policies and procedures may increase the risk of inmate litigation.

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Recommendation #3

We recommend the Board of Pardons and Parole:

- A. Develop a comprehensive resource manual for guiding agency activities.**
- B. Coordinate development of the resource manual with the Department of Corrections to ensure the manual is consistent with department practices and policies.**

The Board Can Increase Efficiencies by Improving Automation of Management Information

The Board relies on multiple manual and automated management information processes for tracking inmates and conducting routine activities. Management information located in one system is duplicated in one or more other systems. For example, information about inmates and parolees may be entered into five separate systems:

- < A card file index system used as a “quick reference” for Board staff.
- < A card file index system used for scheduling hearings and reviews.
- < A word-processing system for printing summaries of Board decisions each month.
- < ACIS for Board statistical purposes.
- < A hard-copy file the Board maintains for each offender.

Efficient information systems should minimize duplication and promote overall agency efficiencies.

Existing Board systems and processes require manual inputs and updates. Reliance on paper and manual systems creates storage problems and limits the Board’s ability to compile data quickly. Furthermore, all management information is maintained in one location without a disaster recovery system located outside of the

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Board's offices. Consequently, lost documentation would be costly to reconstruct and result in missed hearings or failure to notify victims and criminal justice system personnel of scheduled parole hearings.

Although the Board has installed new computer hardware and software for some agency activities, it has not sought a comprehensive, integrated management information system, partly because of funding limitations. In addition, Board staff had access to ACIS, which partially met their needs.

Conclusion #3

While the existing information systems may have adequately served the Board at one time, those systems are becoming obsolete and expansion of the correctional system has placed new demands on the existing systems. We believe the Board should examine its processes to identify management information and automation options, which need to be included in development of a comprehensive management information system.

The Board and DOC Should Coordinate Management Information

Since the Board and DOC need similar offender information, a shared management information system could address each agency's needs. The Board and department should coordinate development and implementation of the new management information system. DOC is developing an automated offender information system called PROFiles to replace the ACIS system. During initial planning of the new system, neither agency coordinated activities to incorporate offender or other information critical to both agencies into PROFiles.

ACA accreditation standards require parole agencies and other related agencies to collaborate on the gathering and exchange of information. Through coordination, the two agencies can ensure comprehensive correctional system information is collected and

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available to both agencies. Additionally, coordinating management information systems can improve efficiency by minimizing duplicative data entry among the agencies and potentially reduce costs incurred with implementation and management of separate systems for each agency.

Conclusion #4

Since March 2000, the DOC has included a Board representative as part of PROFiles development. The two agencies should continue to formally coordinate and integrate Board management information needs into the new system.

Summary

Addressing the issues will require both agencies to assume responsibilities for resolving management information issues. The Board will need to identify their individual needs for management information. Subsequently, the Board and DOC will need to continue to cooperate on integrating Board management information needs during the development of PROFiles.

Recommendation #4

We recommend:

- A. The Board continue to examine its administrative processes to identify management information and automation options for ongoing agency operations; and**
- B. The Board and DOC continue to coordinate the collection and sharing of management information as part of the development of PROFiles.**

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Formal Communications and Coordination Strategies Would Improve Board and Department Operations

Many Board and department activities are linked via program and policy decisions. During the audit we noted the two agencies have limited formal communication and coordination and have not established strategies for ensuring agreement on the direction of rehabilitation programming or use of correctional system resources. Additionally, we noted the two agencies have not coordinated the collection and reporting of management information.

According to the ACA, systematic and joint planning between correctional agencies and parole authorities is central to an effective correctional effort. Parole authorities and correctional agencies need to coordinate activities to ensure agreement on programmatic directions and how each agency will subsequently manage its operations to achieve jointly identified goals and objectives. It is also essential for parole authorities to participate fully with other correctional system agencies to articulate their goals and objectives with those of the total system.

Without good formal communication and strategies for coordinating system activities, the two agencies have limited assurance implementation or modification of programs or practices will meet one another's needs or expectations. Limited communication and coordination also increase the potential one agency will not fully understand programmatic changes or use programs accordingly. Ultimately, it increases the risk correctional system resources will not be used effectively, which may increase correctional system costs.

To illustrate the issue, the Department of Corrections recently implemented new supervision standards for probationers and parolees without coordinating the changes with the Board. As part of this change, the department hired additional probation and parole officers and intends to increase supervision of parolees. Increased supervision includes more contact with offenders, their families, and their employers to verify offender compliance with parole

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conditions. The new strategies also include increased emphasis on collecting supervision fees, fines, and restitution payments to victims. Levels of community supervision and supervision strategies are criteria the Board considers when making parole release decisions since they relate directly to public safety and can provide financial compensation to communities and victims, as well as promote offender rehabilitation. The department apparently provided Board staff with some training after implementation of the new standards. Since the level of community supervision are criteria the Board considers in parole release decisions, the department should have involved the Board in the development of the new standards.

Similarly, we noted the Board has not fully coordinated formal and informal policies and practices that affect DOC activities. For example, the Board's clear conduct and revocation policies have a punitive effect on inmates and can adversely impact inmate populations. Potentially, the Board could better coordinate its policies with prison officials to seek alternative sanctions that would not substantially delay inmate paroles.

During the audit, we also identified other areas where improved communication and coordination could increase efficiencies or improve effective use of available resources.

- < Coordination of offender treatment and programming. We documented the Board may require inmates complete treatment or programming in prison before transferring to less costly PRC placements where the same programming was available.
- < Review and approval of inmate parole plans. The department is responsible for investigating and approving parole plans before the Board formally approves parole releases. However, we noted the processes include administrative reviews and procedures that may delay parole releases unnecessarily.
- < Furloughs. The Board may grant inmates parole pending their securing approved residences and employment. The

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legislature authorized furloughs, a temporary release to the community, for inmates that are unable to meet these requirements while confined to prison. According to board members and staff, the Board rarely recommends or approves furloughs because the program has not addressed their public safety concerns. Improved coordination of the program may increase opportunities for inmates to meet Board requirements and promote timely release of inmates already approved for release.

- < Standardized reporting of management information. We also noted the two agencies have not standardized reporting of information. For example, DOC reports information by fiscal year for financial reporting purposes. However, the Board uses both calendar and fiscal year periods for reporting information. Using different methodologies for reporting management information limits the abilities of the Board, department, and other agencies to easily compare and evaluate multi-agency correctional system information.

The Board is organizationally separate from DOC to help ensure funding and inmate populations are independent of parole decisions and do not compromise public safety. It appears the two agencies have further limited their formal coordination to help ensure the appearance of independence. However, agencies with interdependent roles and responsibilities should have both strong informal and formal communication and coordination strategies to promote efficiency and effectiveness. Furthermore, strategies can be developed that do not impair the Board's independence.

The two agencies recently agreed to include the Board's executive director in department management meetings and an administrative officer in the Community Corrections Division management meetings. Similarly, the board should regularly include department representatives in management meetings regarding board activities. The Board and department could go further and develop formal processes and policies that promote and ensure strategic planning for Montana's correctional system. First, the Board and DOC need to identify correctional system activities where they have shared interests or responsibilities. Second, each agency should establish notification requirements when either agency proposes changes to

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policies or practices where interdependence exists. Third, the two agencies should maintain interagency liaisons to promote communication and coordination in the identified areas.

Increased coordination can improve the timeliness of inmate parole releases and increase the efficient and effective use of correctional system resources. Ultimately, improved communication and coordination can decrease correctional system costs.

Recommendation #5

We recommend the Board of Pardons and Parole and the Department of Corrections further develop formal processes for coordinating interagency activities.

Agency Response

DEPARTMENT OF CORRECTIONS



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November 1, 2000

RE: Response to Legislative Audit Recommendations

NOV 3 2000

Mr. Scott A. Seacat
Legislative Auditor
Legislative Audit Division
Room 135, State Capitol
PO Box 201705
Helena MT 59620-1705

Dear Mr. Seacat:

Thank you for the opportunity to respond to the performance audit report of the Board of Pardons and Parole. We have reviewed the recommendations, and the department concurs with the findings of the audit report. Our responses to each recommendation that applies to the department follow:

RECOMMENDATION #3

WE RECOMMEND THE BOARD OF PARDONS AND PAROLE:

- A. DEVELOP A COMPREHENSIVE RESOURCE MANUAL FOR GUIDING AGENCY ACTIVITIES.
- B. COORDINATE DEVELOPMENT OF THE RESOURCE MANUAL WITH THE DEPARTMENT OF CORRECTIONS TO ENSURE THE MANUAL IS CONSISTENT WITH DEPARTMENT PRACTICES AND POLICIES.

Response: We concur. The department is willing to assist the board in their endeavor.

RECOMMENDATION #4

WE RECOMMEND:

- A. THE BOARD CONTINUE TO EXAMINE ITS ADMINISTRATIVE PROCESSES TO IDENTIFY MANAGEMENT INFORMATION AND AUTOMATION OPTIONS FOR ONGOING AGENCY OPERATIONS; AND
- B. THE BOARD AND DOC CONTINUE TO COORDINATE THE COLLECTION AND SHARING OF MANAGEMENT INFORMATION AS PART OF THE DEVELOPMENT OF PRO-FILES.

Response: We concur. The department will continue to include personnel from the board in the planning process of PRO-Files. As part of the quality assurance process the department has also established a stewardship program, which delegates the responsibility of identifying information needs and quality to employees throughout the department. A representative from the board is one of the data stewards.

RECOMMENDATION #5

WE RECOMMEND THE BOARD OF PARDONS AND PAROLE AND THE DEPARTMENT OF CORRECTIONS FURTHER DEVELOP FORMAL PROCESSES FOR COORDINATING INTERAGENCY ACTIVITIES.

Response: We concur. The department currently has representation from the board on the following areas:

- Department Management Team
- Community Corrections Management Meetings
- Pre-release Screening Committee
- Policy Task Force
- PRO-Files Development Team
- Projections Advisory Committee
- Treatment Task Force

The department has expanded formal communications and will continue to look for other opportunities to increase formal communications.

Thank you again for your time. We wish to thank your staff for their suggestions for improving the effectiveness of the Board of Pardons and Parole and for their courtesy in working with our staff.

Sincerely,



RICK DAY
Director

RD/lm/set

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